

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VALASSIS COMMUNICATIONS, INC.,

Plaintiff,

v.

Case No. 06-10240

NEWS AMERICA INC., a/k/a NEWS AMERICA
MARKETING GROUP; NEWS AMERICA
MARKETING FSI, INC., a/k/a NEWS AMERICA
MARKETING FSI, LLC; and NEWS AMERICA
MARKETING IN-STORE SERVICES, INC., a/k/a
NEWS AMERICA MARKETING IN-STORE
SERVICES, LLC,

District J. Arthur J. Tarnow

Defendants.

ORDER DENYING CROSS-MOTIONS FOR SUMMARY JUDGMENT [129, 133]

Before the court are defendants' motion for summary judgment and plaintiff's motion for partial summary judgment. The court received supplemental briefing. The motions came on for a hearing on September 3, 2009.

For the reasons stated on the record, the motions are DENIED. The state-court trial before Judge Sapala does not have issue-preclusive effect on the proceedings before this court.

Accordingly, there are genuine issues of material fact for a jury to consider. The following are some of the factual issues that remain:

1. Whether the free-standing-insert (FSI) and in-store-promotions (ISP) markets are relevant markets for antitrust purposes
2. Whether News America has a monopoly over the ISP market
3. Whether News America coerced manufacturers of consumer packaged goods (CPGs) to buy FSIs from News America
4. Whether there is a dangerous probability of success that News America will monopolize

the putative FSI market

5. Whether the bundled discounts were anticompetitive

SO ORDERED.

S/ARTHUR J. TARNOW

Arthur J. Tarnow
United States District Judge

Dated: September 4, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 4, 2009, by electronic and/or ordinary mail.

S/THERESA E. TAYLOR

Case Manager